

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALVIN L. HINTZ, JR.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-C-1444
)	
THE PRUDENTIAL INSURANCE)	Judge Dow, Jr.
COMPANY OF AMERICA)	
)	Magistrate Judge Valdez
Defendant.)	
)	
)	
)	

**JOINT REPORT OF PARTIES
AND PROPOSED CASE MANAGEMENT PLAN**

The parties have conferred and agree as follows:

1. Appearances.

Pursuant to Fed. R. Civ. P. 26(f), the parties exchanged drafts of a Joint Report of Planning Meeting via electronic communication. The participants were:

Marcie E. Goldbloom, Daley, DeBofsky and Bryant, **Counsel for Plaintiff, Alvin L. Hintz, Jr.**

and

John R. Richards, Morgan, Lewis & Bockius LLP, **Counsel for Defendant, Prudential Insurance Company of America**

2. Prediscovery Disclosures.

This is an action challenging a denial of ERISA plan benefits under 29 U.S.C. §1132 and therefore is exempt from Rule 26(a)(1) of the Federal Rules of Civil Procedure.

3. Discovery Plan.

A. The parties agree that this is a matter to be decided by the Court upon the administrative record and briefs.

B. Defendant contends that discovery is limited to the administrative record. Plaintiff requests the right to file a motion seeking discovery outside of the administrative record in the event there is a potential conflict of interest or if the administrative record is incomplete.

C. Plaintiff contends that the appropriate standard of judicial review in this action challenging a denial of ERISA plan benefits under 29 U.S.C. §1132(a)(1)(B) is the *de novo* standard of review. Defendant contends that the appropriate standard of judicial review in this action challenging a denial of ERISA plan benefits under 29 U.S.C. §1132(a)(1)(B), is the arbitrary and capricious standard of review.

D. Counsel for Defendant, Prudential Insurance Company of America, shall file under seal with the Court the Administrative Record on or before June 18, 2008. The parties further agree that the Administrative Claim Record should be filed under seal because it contains extensive medical records which are considered by the Plaintiff as confidential and personal. Moreover, redaction of personal identifiers would not protect Plaintiff's privacy as the action for insurance benefits is necessarily brought in his own name.

E. Discovery shall be completed on or before July 18, 2008.

F. Plaintiff shall make a settlement demand, if any, by August 18, 2008;

G. Defendant shall make a settlement response, if any, by September 12, 2008;

H. Plaintiff shall file its brief for judgment on the administrative record by October 27, 2008;

I. Defendant shall file its memorandum in opposition by November 17, 2008;

J. Plaintiff shall file its reply by December 8, 2008;

K. The matter will then stand submitted for decision.

4. **Other Items**

A. The parties do not request a conference with the Court before entry of the scheduling order.

B. The parties agree that joining of additional parties and amendment to the pleadings is not necessary.

C. At this time, settlement does not appear appropriate.

D. The parties are not entitled to a jury trial under ERISA.

E. The parties agree that no scheduling conference is necessary.

HAVE SEEN AND AGREE:

May 1, 2008

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